

HAMPTON CONSERVATION COMMISSION PUBLIC HEARING

June 23, 2015

DRAFT MINUTES

PRESENT:

Jay Diener, Chair
Peter Tilton, Vice Chair
Barbara Renaud, Clerk
Dan O'Connor, Alternate
Sharon Raymond
Gordon Vinther
Pat Swank, Alternate

Also Present: Rayann Dionne, Conservation Coordinator
Mary-Louise Woolsey - Selectmen Representative
Ann Carnaby, Planning Board Representative

I. CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by Chairman Jay Diener, at the Town Hall Selectmen's Meeting Room.

II. REVIEW OF MINUTES:

MOTION: It was moved by Mr. Tilton to approve the May 26, 2015 minutes.

SECOND: Ms. Renaud with the addition of any edits provided

VOTE: 5 in Favor, 0 Opposed, 2 Abstain (Mr. Diener and Mr. Vinther)

MOTION

PASSED

III. Appointments

1. Victory Garden Update – Cindy Willis

Ms. Willis gave a brief overview of how things are progressing this year at the Victory Garden. All of the existing gardens are fully rented. Mr. Diener asked if the new garden spaces are being used. Ms. Willis responded that they are marked out, but still need additional prep work like removing stones. The rental fee was increased this year from \$20 to \$25. This increase should provide a cushion of a couple hundred dollars to put towards unexpected cost such as an increase in water rates. Aquarion did agree to waive the water service fee for a second year in a row. Ms. Willis noted that there was an unusually high turnover rate this year (10 new renters). The decisions to leave the garden were based on personal reasons and none had to do with the rate increase. The waiting list is now down to 2 people.

Ms. Willis spoke about their original plans to do a fundraiser in March. However, there was still a lot of snow on the ground and people did not seem quite ready to talk about gardening. There is still interest in doing the fundraiser, perhaps next spring. The goal would be to talk with the newspaper to get a story on the garden plus the new additional plots. Ms. Willis believes there are still plenty of people who do not know about the garden. If there is increased interest in having a garden plot, then these new members could work on getting the new plots ready. Ms. Renaud asked if they might be interested in doing their fund raiser during the garden club plant sale and the rain barrel auction next year. It might be a good fit. Mr. Diener and Ms. Woolsey agreed. Ms. Willis asked if the Board of Selectmen (BOS)

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approval would be needed to join that event. Mr. Diener confirmed that approval is needed each year for any type of fund raising event or acceptance of donations. Ms. Willis also noted that at the recent Victory Garden meeting, gardeners asked about purchasing manure and with a fundraiser it could be possible. Mr. Diener did not think the BOS would have an issue with the fund raiser. Mrs. Dionne added that the Garden club usually picks the plant sale date a few months in advance.

Ms. Willis commented with regards to the status of the new plots, it is typical practice for the new gardeners to prepare their gardens as oppose to the current renters getting them ready. Mrs. Dionne recommended contacting the Stewardship network, who sends out volunteer workshop opportunities to a widespread list of subscribers. The Victory Garden could schedule a workday that could be added to the Stewardship's calendar. Mr. Diener also noted that the workday could also be advertised on Conservation Commission's Facebook page. Ms. Willis said that the Victory Garden has talked about starting a Facebook page, but needs to identify someone to lead that effort. Mrs. Dionne verified that all the bank statements are provided to the finance department quarterly. Lastly, Ms. Willis shared that she had viewed other Town gardens and Hampton is one of the largest and most active gardens. We are very fortunate to have such a great space. Mr. Diener, reminded her to continue to take photos. Ms. Willis agreed to come back in September for an end of the season update.

2. State Park Beach Grass Garden – Alyson Eberhardt (UNH Cooperative Extension & NH Sea Grant)

Ms. Eberhardt shared that she had received funding from the NHDES coastal program to conduct community based dune restoration project in Hampton and Seabrook. The two major goals of the project are to address/restore some coastal resilience by making a more continuous dune and to create a network of local citizens who have a better understanding and hands on experience with dunes. Work on the project is underway, the beach grass garden was installed at the State Park and a NHDES Minimum Expedited Permit has been filed for dune restoration work in Seabrook. The name "beach grass garden" has been changed to "common garden" because additional species such as beach pea, golden rod, beach rocket have been planted. The garden also contains a walkway through the center and a flyer explaining its purpose.

Ms. Eberhardt proceeded to show several maps identifying where the garden is planted and the proposed dune restoration areas, both at the State Park and the Seabrook back dunes along the Hampton River. They will be focusing on revegetating walkways at both locations that are not commonly used and only keeping major routes accessible. Reducing the number of walkways is important because they are conduits of the storm surge which fragments the dunes further. Revegetation will take place in the fall. Ms. Eberhardt also commented that it would be great if homeowners used the common garden as a native stock source for planting on their own properties. Mr. Diener asked about the process for individuals wanting to get plants. Ms. Eberhardt responded that the best way is to contact her directly. She would envision meeting with the homeowner(s) and working with them to figure out where and how to best transplant the plants. Mr. Tilton commented that we frequently see Town Wetlands projects where property owners are asking where to get beach grass, this garden will be very helpful. Ms. Eberhardt also noted that they are planning on conducting a community based meeting in July which would cover all aspects of this project. It would also provide an opportunity for interested residents to get more information and participate. Mrs. Woolsey thought that the Hampton Beach Village Precinct would be interested in the community meeting.

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Ms. Eberhardt commented that they are coordinating their dune plantings with the Army Corp of Engineers efforts to repair the north side jetty this fall. Ms. Eberhardt gave some additional detail on the Seabrook dune revegetation, indicating that additional plants other than that just beach grass will be planted. There has been recent incidences where beach grass die off. It has been found that some of the other plant species take over where the beach grass dies off, so planting a variety of plants help. At both the State Park and Seabrook back dune there will be large signs about the project and the importance of protecting the dunes. There will also be a picture post in the common garden at the State Park. It's an eight-sided post for taking monitoring photos and there is a mobile application for uploading the photos. Both of these areas will be monitored regularly for plant success, elevation data, and dune accretion or erosion, etc. This project goes until June of 2016. Ms. Eberhardt stated that they would like to extend the work to the foredune in Seabrook, but that will take more effort. There are areas along that dune system that could benefit from some thinning. Harvested Beach grass would be transplanted in the common garden at the State Park. Mr. Diener commended Ms. Eberhardt for putting together such a great project for dune restoration, monitoring and community involvement. Ms. Eberhardt hopes to keep this work funded and moving forward. Mr. Diener asked how the Commission can help. Currently, Ms. Eberhardt needs a better understanding of the local groups that should be engaged as volunteers for the planting efforts. The planting this spring was done by several local school groups. She would also like to get local adult volunteers. Mr. Tilton recommended the Gebhardts as a great resource and Mr. Diener the Hampton Garden Club. Lastly, Ms. Eberhardt shared that the community meeting in July will be during a weekday evening. Mr. Diener reminded her that Wednesday nights are hectic with the beach fire works.

3. 23 Falcone Circle – Review ZBA request for relief from the 12 ft. primary setback from the WCD.

Mr. Frank Catapano the current owner of 23 Falcone Circle gave an overview of why he was requesting relief from 12' primary building setback from the WCD. The current lot is an approved building lot. The current location of the house is very similar to the location that was depicted in the Subdivision application several years ago. When reviewing the project with the Building Inspector the 12' primary building setback from the WCD was brought to Mr. Catapano's attention. Mr. Catapano submitted an application to the Zoning Board of Adjustment (ZBA) and they recommended that he meet with the Commission to discuss the request to encroach into the 12' setback. Mrs. Dionne clarified for the Commission that this original subdivision proposal was not approved by the Commission or Planning Board, but was overturned in court.

Mr. Catapano presented two house layouts, one conforming and one non-conforming with regard to the 12' primary building setback. He explained that the conforming configuration only provides 18" from the rear of the house to the 25' "No cut buffer zone". The non-conforming layout places only 68 sq. ft. of the house into the 12 ft. setback yet provides greater room between the rear of the building and the 25' "No cut buffer zone". Mr. Diener reminded the Commission that the ZBA is looking for a recommendation on whether to grant this variance request. He also noted that this is the first time relief is being requested for this setback since it was recently approved by Town Vote in March.

Ms. Raymond explained that she could not properly evaluate the grading impacts from the building's foundation without a grading and elevation plan. Mr. Catapano stated that there would be no disturbance in the 50' wetlands buffer. However, Ms. Raymond could not be certain without a more detailed plan. Mr. Catapano reiterated the no disturbance in the 50' buffer and added that there is an

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extensive drainage plan to implemented onsite. Mr. Diener commented that the 12' primary structure setback ordinance does not address grading.

Mrs. Dionne reminded that Commission that there was a lot hard work and effort put forward to get this setback approved. The main objective of the setback is to provide ample space around the building to allow a homeowner to use his property without being right up against the buffer. She would like to see the 12' setback maintained. Ms. Carnaby asked for clarification on the major difference between the two layouts. Mr. Catapano explained the difference, but advocated for the layout that shows the greatest amount of space around the entire house as opposed to the maximum distance from the buffer. Mr. Vinther asked when the wetlands were last delineated. Mr. Catapano said 2011. Mrs. Dionne looked at the Subdivision file that had a delineation date of 2008, however it could have been updated in 2011. Mr. Vinther asked if there was any mitigation proposed to offset the encroachment into the 12' primary setback. None was currently proposed. Ms. Swank asked other than the back of the house being close to the rear 25' "No cut zone" are there any other disadvantages? Mr. Catapano replied that it also situates the house closer to the neighbor. It is a very tight buildable area. Mr. Diener asked about a drive under garage. Mr. Catapano stated that you need to have 30 ft. for turnaround space which would encroach into the buffer.

Ms. Renaud commented that the lot is currently in a naturally vegetated state. She did not see the hardship, a building layout could be configured that met the 12' setback. She also noted that the Commission frequently sees projects where people want accessory structures and are upset when they have no space around their dwelling to do so. She does sympathize and understand why they would not want to abut up against the "No cut buffer zone" because of how large tree can grow. Overall, she did not feel there was sufficient reason to support granting this variance. Mr. Catapano responded that he believes the non-conforming layout will result in least amount of impact or additional development into the 12' setback. Mr. Diener reminded him that there are no additional restrictions in the 12' primary building setback. Ms. Woolsey supported the Commission in upholding the primary setback that they worked so hard to create.

Mr. Tilton was discouraged that the court approved this lot because now the Commission has to deal with the ramifications. Mr. Tilton added that the deck on the back might lead to more trees be taken down at the rear which is the most difficult place to police. Mrs. Dionne also added that the placement of the deck on the side of the house would lead to greater privacy from the neighbor than having the deck at the rear. Ms. Renaud commented that on the site walk it was visible that the neighbor has already installed a vinyl fence along the property boundary. Mr. Tilton added that when dealing with a tight lot there has to be compromise, you can't get everything. Ms. Raymond agreed and commented that if you can build a house that will meet the setbacks without the variance then there is no grounds for hardship. Mr. Diener agreed, saying that you have to work with what's there and understand the limitations of your property. Mr. Catapano responded that the lot was approved prior to the primary building setback and he did not think that conforming to that 12' setback provided a layout that was best for the property. However, he was capable of building either layout

MOTION: It was moved by Ms. Raymond to recommend that the ZBA deny the request for relief from the 12' primary building setback from the WCD based on a lack of hardship given a conforming building layout was presented by the property owner. A copy of the conforming layout would be signed by the Chair and attached to the letter to the ZBA.

SECOND: Ms. Renaud

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VOTE: 6 in favor, 1 abstain (Mr. Diener)

MOTION PASSED

IV. Applications

1. 92 King's Highway. Owner – Gail Morrison

Replacement of existing wooden north boundary fence with vinyl fencing.

This is a Town Wetlands Permit.

Gail Morrison, one of the owners of 92 King's Highway, explained that they want to replace the existing wooden stockade fence with a white vinyl fence. The new fence will be in the same location. Ms. Raymond asked if the fence would be slightly elevated off the ground to allow water to flow through. Mrs. Morrison said that it could be and her husband (in the audience) said he would like it to be about 4" off the ground to allow for weed-whacking without damaging the fence. Ms. Renaud asked if there would be new post holes dug. Mrs. Morrison responded that the existing post holes would be used for the fence. The Commission was in agreement that the existing fence is in poor condition and replacement using the current location with a new material was reasonable.

PUBLIC COMMENT: None

MOTION: It was moved by Ms. Renaud to recommend the granting of the Town Wetlands Permit for the replacement of the existing wooden fence with a vinyl fence with at least 4" of clearance at the bottom at 92 King's Highway.

SECOND: Ms. Swank

VOTE: 6 in Favor, 0 Opposed, 1 Abstain (Mr. Diener)

MOTION PASSED

2. Hampton State Park. Owner – State of NH, Agent – Tracy Shattuck, NH Port Authority

Repair the Hampton Harbor North Jetty.

This is a NHDES Standard Dredge and Fill application

Tracy Shattuck, chief Harbor Master, presented this application on behalf of the Army Corps of Engineers. Mr. Shattuck explained that the Army Corp is responsible for the maintenance of the Hampton Harbor channel and the jetty system. They applied for and were award some funding from the Federal Emergency Management Agency (FEMA) towards the repairs because some of the damage was associated with Super Storm Sandy. Mr. Shattuck, having listened to the presentation on the dune restoration, commented that during the 2005 channel dredging effort the dredge spoils were used for local dune restoration.

Great efforts will be made not to damage the existing dune systems at the State Park during this effort. A majority of the repairs will be done from a barge. If equipment is needed on the jetty, there is an existing access way from the State Park. The contractor will be made aware that the excavator and any other necessary equipment must stay within the footprint of the pathway. If they have any impacts, it must be restored. Staging will be on the left side of the State Park entryway. The restoration of the tennis court area proposed by the Dune restoration project will happen after jetty repair. Mr. O'Connor asked if the work mostly involves replacing and adjusting the large stones. Mr. Shattuck agreed. Mr. Tilton asked if the cable used to help people cross the jetty will be restored. Mr. Shattuck said it would be restored. Ms. Woolsey asked when the repairs will begin. Mr. Shattuck said that the work would

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be completed between September and March. A more firm schedule will be set after the contractor is selected, they are hoping to go out to bid soon. Ms. Woolsey also asked if the large gaps between the stones which are often an attractive nuance would be filled. Mr. Shattuck said they do not want large gaps in the jetty. Ms. Swank followed up with some additional concerns about potential equipment impact on the dune near the pathway used to access the jetty. Mr. Shattuck reassured that any impacts would be stored. Construction mats would also be utilized, if necessary. Ms. Renaud wondered if they would they be out during Ms. Eberhardt's transplanting effort. Mr. Shattuck said no. Mr. Vinther asked if the barge would be removed every day. Mr. Shattuck responded that the barge would be parked in the facility's harbor dock space.

PUBLIC COMMENT: None

MOTION: It was moved by Ms. Renaud to not oppose the approval of the NHDES Wetlands Permit for the repairs the Hampton Harbor North Jetty.

SECOND: Mr. Tilton

VOTE: 6 in Favor, 0 Opposed, 1 Abstain (Mr. Diener)

MOTION PASSED

V. Non-Public Session - RSA 91-A:3, II(c)

VI. Old Business

a. 2016 Warrant articles

The Commission reviewed the current list of potential warrant articles for 2016:

1. Contiguous area outside of WCD,
2. 100% of land use tax to Conservation.
3. Increase the wetland setback to 100' and septic system to 100' based on PREPPA report recommendation for Hampton.
4. Update previous Warrant article that states that all marsh parcels through tax lien go to conservation, tax lien parcels adjacent to conservation land should also go to conservation.

Mr. Diener suggested that we prepare a rough draft of these articles for further review and discussion at the August meeting. Ms. Raymond said that she had some examples/language for wetland setbacks that could be useful. Mr. Tilton reminded the Commission, about the reoccurring money article for \$10,000 towards the Conservation Land Fund. Mr. Tilton wondered if it should be increased to \$25,000 or \$50,000. Mr. Diener shared that in 1985, the Commission had the appropriation at \$25,000 and Selectmen Woolsey voted to increase it at deliberative session to \$50,000. Mr. Diener was not sure about an increase because he did not want it to be too large that we lose voter support. The Commission discussed what number would be most appropriate, Ms. Woolsey suggested \$20,000 and the Commission agreed to move forward with that amount. Mr. Diener also shared that some surrounding towns have been considering variable buffers which are based on the quality of the wetland. All members were in agreement that this would not be appropriate in Hampton. All of our wetlands should be protected equally. He also shared the concept of directional buffers for vernal pools. It was agreed that this would be worth learning more about.

b. Summer/Conservation easement internship

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Mr. Diener gave a quick update that the Fields Pond Foundation does not give grants for this type of work. There is another organization (The Davis Foundation) that provides funding for this type of work, but they do not accept application until the fall. Could apply for funding for summer of 2016.

c. Land between Route 101 and North Hampton – Strategy

Mr. Diener shared that in the June tax lien taking, the Town accepted a parcel in this area that is adjacent to Route 111. It was decided that the next step should be to contact other owners and see if they are interested in donating the land, if the Commission covers the administrative costs.

d. Rain Garden Cost-Share Grant

Mr. Diener shared that the Mrs. Dionne did a great job organizing the first of two rain garden installations this past Monday. Mrs. Dionne added that she was very pleased with how it went. They installed a rather large garden approximately 10'x20', starting at 8:30 am and finishing up by 3 pm. She also commented that it has been a learning process, but feels confident that we can install 2 gardens a year through the cost share grant opportunity.

e. Draft Education slides for Channel 22

Mrs. Dionne reported that she had not had a chance to work on these slides with rain garden stuff taking a precedent, but hopes to have updated slides for the next meeting

VII. New Business

a. Revised Town Wetland Permit application

Mrs. Dionne handed out copies of the revised Town Wetlands application. The goal of these revisions is to provide guidelines for common types of projects such as fences, pools or large subdivisions or site plans. These revisions are modeled off of a Wetlands Application from the Town Bedford, NY. The Commission agreed to review the document and provide edits and comments to Ms. Dionne by Friday (6/26).

b. Tax Lien properties –

Mr. Diener shared that there was an old warrant article where it was specified that salt marsh parcels taken by tax lien would be placed under the case of the Conservation Commission. It was thought that perhaps this warrant article should be updated to include those parcels that are adjacent to salt marshes as well. Often times the parcels directly adjacent to salt marsh parcels should be protected from future development.

c. Review the Revisions to the Ice Pond Contract

The Conservation Commission reviewed the cost amendment presented in a letter dated April 23, 2015 detailing additional costs related to engineering and design of the Ice Pond Dam. The total additional cost requested was \$4,930.00 for additional engineering and design work, \$2,520.00 for the Project Manual, and \$1,012.00 for rate increases for the construction oversight. Mrs. Dionne did share the Town Manager spoke directly with Chris Jacobs, DPW Director, and Kevin Schultz, Building Inspector and both were comfortable with providing the construction oversight in-house. This does not cover the concrete testing costs.

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MOTION: It was moved by Mr. Vinther to request an itemized cost explanation for the \$4,930.00 with supporting documentation. Depending on the quality of the documentation and justification of additional engineering cost, there may be the potential to negotiate a reduction in the engineering/design overage. The Commission accepts the estimate for the Project Manual. The Commission agrees to in-house construction oversight based on conversations between the Town Manager, DPW and Building Department.

SECOND: Mr. Tilton

VOTE: **6 in Favor, 0 Opposed, 1 Abstain** (Mr. Diener)

MOTION PASSED

VIII. Conservation Coordinator and Chair update

Mr. Diener gave a brief overview of the ZBA's review of a variance request for 230 Exeter Rd. The Commission met with the property owner last month to discuss two potential development plans. The Commission voted to send a letter to the ZBA supporting the development plan that result in no wetland impacts and the donation of 12.5 acres to the Town. The letter was very clear, that the Commission supports developments which preserves open space, but would not comment on the variance request regarding multifamily unit in an RA zone. The ZBA did not grant the variance, but gave the applicant the option to withdraw and they did. Concerned abutters did not like either layout and only wanted a single family house. Mr. Diener noted that more than likely the Commission will be reviewing a Wetlands Application for this site if they decide to move forward with condominiums.

Mr. Tilton presented a brochure that gave an example of the Southeast Land Trust's signs for public lands. This could be useful for the Eagle Scout project for signs in the Town Forest.

Mrs. Dionne shared that Anne Marchand would like to be a back-up minute taker, as her duties as legal secretary have increased. She highly recommends Cheryl Hildreth, who has been working in the Assessing Department. Ms. Marchand said that she felt she would be a good fit and take great minutes. Ms. Dionne said that she would meet with Ms. Hildreth and help to get her up to speed.

MOTION: It was moved by Ms. Renaud to approve Ms. Hildreth as a minute taker.

SECOND: Ms. Raymond

VOTE: **6 in Favor 0 Opposed, 1 Abstain** (Mr. Diener)

MOTION PASSED

Mrs. Dionne shared that SAU90 would like to correct the erosion problem they are experiencing at Batchelder Pond. The general plan is to install coconut logs along the shore and then with some fill behind install several plantings. There is also a section that is eroded from road runoff, which would be filled and seeded. The goal is to stabilize the current soils and prevent further erosion. Mrs. Dionne spoke with Frank Richardson at NHDES and no State permit would be required as long as Conservation was overseeing the project. Mrs. Dionne asked the Commission if they would view this work as restoration or a new project that would require a Town Wetlands Permit. The Commission agreed that the work should be classified as restorative. This means that the project would be reviewed and accepted via an appointment with the Conservation Commission along with the Conservation Coordinator reviewing the installation.

Mrs. Dionne shared with the Commission that a property owner on Ice House Lane is building a new

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home. The lots in this area only have 10ft wetland buffers. The property owner is required to install a vegetated screen using evergreens by the homeowner association. He asked if he could be allowed to plant these trees in the buffer. The Commission supported the plantings along as a planting plan is reviewed and approved by the Conservation Coordinator prior to installation. Mr. Tilton recommended that the homeowner stay away from hemlocks.

IX. Adjourn

ADJOURNMENT:

MOTION: Ms. Renaud moved to adjourn the meeting at 9:45 p.m.

SECOND: Ms. Raymond

VOTE: 7 in favor

MOTION PASSED

The next meeting of the Conservation Commission will be held on July 28, 2015

Respectively Submitted:

Rayann Dionne, Conservation Coordinator